

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

GIACOMETTO RANCH INC., a
Montana Corporation, TOM
GIACOMETTO, a resident of
Montana, and ROBERT
GIACOMETTO, a resident of South
Dakota,

Plaintiffs,

vs.

DENBURY ONSHORE LLC, a
Delaware Corporation, and
DENBURY OPERATING
COMPANY, a Delaware Corporation,

Defendants.

CV 16-145-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on Defendants' motion for judgment as a matter of law (Doc. 111), Plaintiffs' motion for partial summary judgment (Doc. 118), Defendants' cross-motion for judgment as a matter of law (Doc. 126), and Plaintiffs' motion to strike Defendants' cross-motion (Doc. 137) on September 30, 2022. (Doc. 161). The Magistrate recommended that the motion for judgment as a matter of law (Doc. 111) be granted, and that the remaining three motions be denied. (Doc. 161 at 9). In the same order, the Magistrate ordered that Plaintiffs' motion to compel discovery

(Doc. 107) is granted. Plaintiffs filed an objection on October 18, 2022. (Doc. 165). In their objections, the Plaintiffs solely address the Magistrate's order regarding the motion to compel. Because this is a non-dispositive order, it is reviewed solely for clear error. Fed. R. Civ. P. 72(a). A party makes a proper objection "by identifying the parts of the magistrate's disposition that the party finds objectionable and presenting legal argument and supporting authority such that the district court is able to identify the issues and the reasons supporting a contrary result. *Lance v. Salmonson*, 2018 WL 4335526 at *1 (D. Mont. Sept. 11, 2018).

Plaintiffs register their concern that the existing language of the order could prejudice their ability to later seek fees for sanctions if the Defendants do not produce the ordered materials, due to the denial of several portions of the motion as moot. (Doc. 165 at 3-4). Plaintiffs state that they "file this objection to memorialize that understanding [that the Court has ordered production]." This concern is acknowledged; however, the Plaintiffs do not present any legal argument for overturning the Magistrate's decision. After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 161) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendants' motion for judgment as a matter of law (Doc. 111) is GRANTED, Plaintiffs' motion for summary judgment (Doc. 118), Defendants' cross-motion for judgment as a matter of law (Doc. 126), and Plaintiffs' motion to strike (Doc. 137) are DENIED.

DATED this 2nd day of November, 2022.



SUSAN P. WATTERS
United States District Judge